THE HON'BLE SRI JUSTICE C.V. RAMULU

Monday, 3rd July, 2006

W.P.No.20105 of 2005

Between :

Smt. Kalyani … Petitioner

and

The Joint Collector,
Mahaboobnagar,
Mahaboobnagar District & others … Respondents

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.20105 of 2005

O R D E R:

This Writ Petition is filed seeking a Mandamus declaring the Proceedings issued by the 2nd respondent dated 4-12-2004 in File No.F/1145/2004 as confirmed by the 1st respondent in Case No.CS1/1232/2004, dated 19-8-2005 as arbitrary and illegal.

Under the impugned Order dated 4-12-2004 of the 2nd respondent-Revenue Divisional Officer, the fair price shop dealership of the petitioner was cancelled on the ground that she is not residing in the village and her father is running the fair price shop. Absolutely, there is no other allegation as to irregularity, if any, committed by the petitioner under the A.P. Scheduled Commodities (Public Distribution System) Control Order,2001. Aggrieved by the same, the petitioner carried the matter in appeal before the 1st respondent-Joint Collector, Mahaboobnagar. Earlier, the Joint Collector dismissed the appeal on 5-3-2005. Aggrieved by the same, the petitioner filed Writ Petition No.7376 of 2005 and this Court disposed of the same on 5-4-2005 by the following Order:

> "Heard both sides. Perused the material placed before me.
>
> Aggrieved by the Proceedings issued by the second respondent cancelling her authorization as fair price shop dealer, the petitioner preferred an appeal before the first respondent. However, the first respondent dismissed the appeal without giving any reasons. Challenging the said order, the petitioner filed this Writ Petition.

> The second respondent, being a senior Officer and acting as a quasi judicial authority, ought to have passed the impugned Order in a better way than the manner in which it was ordered. The impugned Order, dismissing the appeal is so cursory in nature. At no stretch of imagination, it can be called as an order that deserves to be passed in an appeal.
>
> The appellate authority better understand the way of disposal of an appeal or revision. Nothing need to be added, since there is nothing in the order except order of dismissal.
>
> Hence, the impugned order is set aside and the matter is remitted back to the appellate authority with a direction to dispose of the appeal by giving reasons, as expeditiously as possible."

In spite of such an Order being passed, in the Order impugned in this Writ Petition, the 1st respondent-Joint Collector has repeated what he has done earlier. Absolutely, no enquiry known to law has been conducted. Neither any opportunity was given to the petitioner nor the report purported to have been sent by the Mandal Revenue Officer, Ghanpur is supplied to the petitioner. The simple case of the petitioner is that she was in the family way; therefore, visiting Hyderabad now and then for medical check up and treatment; as such, her father was looking after the fair price shop. There is no proper enquiry conducted by giving opportunity to the petitioner for the purpose of producing any oral or documentary evidence. Only on the basis of the report of the 4th respondent-Mandal Revenue Officer, which was also relied upon in the earlier Order dated 5-3-2005, the impugned Order is passed.

I am of the opinion that the 1st respondent-Joint Collector has repeated almost the same Order, except saying that the Mandal Revenue Officer stated this way and the explanation of the petitioner is of that nature. Therefore, the impugned Order is illegal and liable to be set aside. As such, the Order dated 4-12-2004 passed by the 2nd respondent, as confirmed by the 1st respondent in his Order dated 19-

8-2005 is accordingly set aside. The authorization of the fair price shop dealership of the petitioner shall be restored forthwith. However, this Order will not preclude the respondent-authorities from conducting a detailed enquiry into the matter and passing appropriate orders thereafter, as per law.

Accordingly, the Writ Petition is allowed. No costs.

03-7-2006

prk